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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,128	12/17/2001	Durward I. Faries, JR.	1322.0040C	4172

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EXAMINER

HAYES, MICHAEL J

ART UNIT PAPER NUMBER

3763

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/016,128

Applicant(s)

FARIES, ET AL.

Examiner

Michael J. Hayes

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) 1-16 and 24-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-23 and 51-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08).
Paper No(s)/Mail Date 2/7/02 4/28/03 7/21/03 7/6/04 12/3/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 17-23 and 51-62 in the reply filed on 2/11/05 is acknowledged.

Claims 1-16 and 24-50 are withdrawn.

Specification

Applicant's reference to US Patent Application on page 12, line 16 should include the application number.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17-20, 23, 51-54, and 57-60 are rejected under 35 U.S.C. 102(b) as being anticipated by GONZALEZ (US Patent No. 3,293,868). Gonzalez discloses a fluid cassette having tubing sections capable of being secured to an intravenous fluid line, forming concentric sections for fluid flow in one direction and reverse flow in an adjacent tubing section. Gonzalez also discloses tangential outlet tubing portions, intermediate section to reverse fluid flow, a conductive contact 28, and an engagement member 44 to facilitate manipulation, insertion, and removal of the fluid cassette. See figs. 3, 16.

Art Unit: 3763

Claims 17, 19, 20, 57, 58, 59, and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by IKEGAME et al. (US Patent No. 4,747,450). Ikegame discloses a fluid cassette having adjacent tubes that direct fluid flow in reverse directions through an intermediate section. The inlet and outlet portions are configured so as to be capable of being secured to an intravenous fluid line. See figs. 3, 6, and 8.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21, 22, 55, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over GONZALEZ in view of FORD et al. (US Patent No. 5,245,693). Gonzalez discloses the claimed invention except for a fitting receiving a temperature sensor to measure the fluid temperature including a thermally conductive member disposed in the fitting. Ford discloses a fitting 170 receiving a temperature sensor 130 to measure the fluid temperature including a thermally conductive member disposed in the fitting (8:4-10). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the teachings of Ford in the cassette of Gonzalez in order to facilitate heating control of the heat exchanger.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DOBBS et al. (U.S. Patent No. 4,883,117) and RUPP (US Patent No. 1,847,573) show reverse spiral fluid paths in heat exchangers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Hayes at (571) 272-4959. The examiner can usually be reached Monday -Thursday, 7:00-4:30, and on alternate Fridays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi, can be contacted at (571) 272-4977. The fax number for submitting official papers is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mjh
14 May 2005


MICHAEL J. HAYES
PRIMARY EXAMINER